

# Amending the IFQ Program: a new opportunity for Gulf of Alaska coastal communities

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# Background

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- In the 1980s and the early 1990s, the halibut and sablefish fisheries were overcapitalized; the result was
  - Short, intense (derby) seasons (“race for fish”)
  - Poor product quality and low ex-vessel prices
  - Unhappy consumers (little fresh fish)
  - Unsafe operations (loss of vessels and life)
  - Low catch per unit of effort (CPUE)
  - Gear conflicts, lost gear, & ghost fishing
- In 1991, the Council recommended an Individual Fishing Quota (IFQ) program to address these problems
- The IFQ program was implemented in 1995

# Background - IFQ Program

- Quota Shares (QS) were issued to vessel owners and lessees who had catch in the "qualifying years" - late 1980s and 1990
  - Amount of quota depended on amount of catch from that person's boat by species and area
- QS is defined by Species, Area, Vessel Category and Block Status, as follows:
  - Species = Halibut or Sablefish
  - Area = 2C, 3A, etc. (for halibut)  
SE, WY, etc. (for sablefish)
  - Vessel Cat. = A (freezer), B, C, or D
  - Blocked = QS that may not be divided

# Background - IFQ Program (Cont'd)

- The amount of QS that may be held by any person, or fished from any one vessel, is "capped"
  - Amount varies, between 0.5% and 1.5%
- No person may hold more than two "blocks" of QS in any area at the same time (or one block and unblocked QS up to the cap)
- Every year, managers (the IPHC and the Council) decide the Total Allowable Catch (TAC) by administrative area, for both halibut and sablefish

# Background - IFQ Program (Cont'd)

- After the annual TAC is set, QS holders receive their annual Individual Fishing Quota (IFQ) permit
  - The permit authorizes harvest of a specific number of pounds of fish of a specific species (halibut/sablefish), in a specific administrative area
- The amount of IFQ that is issued to a person depends on the amount of QS s/he holds, relative to the QS held by all QS holders in the administrative area (i.e., the "Quota Share Pool" - QSP), as follows

$$QS/QSP \times TAC = IFQ$$

# Background - IFQ Program (Cont'd)

- QS (and IFQ) is transferable (i.e., it may be sold), and so it has a market value
  - Value has been ~ \$10 to \$15 per pound of IFQ
  - Value depends on amount, area, species, etc.
- Catcher vessel QS may only be transferred to, and used by,
  - Those who received QS initially, or
  - "IFQ Crewmembers" (i.e., individuals who can demonstrate 150 days of fishing)
- Eligible persons receive "Transfer Eligibility Certificates" (TECs)
- Catcher vessel QS may not be leased

# Background - IFQ Program (Cont'd)

- (Except in Southeast), corporations and partnerships, and individuals who received shares initially, may hire a skipper to fish their IFQ permit
  - But must own a 20% interest in the vessel
- When a corporation or partnership “changes” (brings on a new owner), it must divest its catcher vessel QS to qualified individual(s)
- So, over time, all catcher vessel QS/IFQ will be held by individuals who must be on board when the IFQ permit is being fished.
- This “owner on board” program element is an important goal of the IFQ program

# Background - IFQ Program (Cont'd)

- The IFQ program has been in effect since 1995; as a result,
  - The seasons have extended to 8+ months
  - The ex-vessel value has increased
  - Product quality has improved
  - Safety at sea has improved dramatically
  - CPUE has risen, while discards, by-catch, lost gear, and ghost fishing have declined
- Consolidation has also occurred
  - Total QS holders have declined by >25%
  - Numbers of vessels have declined by >50%
- So, the program is considered a "success"

# Background - Communities

- Fishermen in small coastal communities (villages) received QS in proportion to their halibut/sablefish fishing in the late 1980s
- After IFQs, some bought more QS and expanded their operations; most did not
- By the end of 1998, almost 25% of QS that was issued to residents of small coastal communities had been transferred to residents of larger communities
  - Even as gross income from IFQ fishing increased
- Problem of declining access to IFQ fisheries was made worse by poor salmon prices

# Background - Communities (Cont'd)

- In the late 1990s, leaders in the communities got organized and created the GOACCC
- Intent was to advocate for a solution to the decline of the fishery economy in small GOA communities
- With respect to IFQ halibut/sablefish, they sought either quota or access to quota
  - GOACCC testified before the National Research Council and before the North Pacific Fishery Management Council (Council) on several occasions
  - GOACCC also met with NMFS, the State, Sen. Stevens, and others, to pursue their goals

# Background - Communities (Cont'd)

- The Council considered two formal mandates, including
  - National Research Council report ("Sharing the Fish...") recommended attention to communities as stakeholders in the management process
  - National Standard #8 [1996 Sustainable Fisheries Act (amended Magnuson-Stevens Act)] mandated consideration of community issues in fishery management plans
- As a result, the Council listened to the GOACCC -- and acted
  - In April 2002, the Council took final action on an amendment to the IFQ program to allow communities to "buy in" to the program

# Background - Communities (Cont'd)

- The result is an approved Amendment to the IFQ Program that allows small coastal communities to “buy in” to the IFQ program and to use the annual IFQ amounts to benefit local communities
- The Final Rule to implement the amendment was published in the Federal Register on April 30
- So, it is possible that communities could obtain QS and be fishing their IFQs during the 2004 season
- A presentation of program elements follows

# Disclaimer

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*The following program description is a summary of the program requirements as set out in the Final Rule, published in the Federal Register on April 30, 2004 [69 FR, No. 84; 23681].*

*Although every attempt has been made to insure the accuracy of this summary, any conflict between the information herein and the provisions of the Final Rule should be resolved by relying on the Final Rule.*

# Program Summary

- Eligible Communities may establish new non-profit corporations to act on their behalf; if they do, then
  - The non-profits apply to NMFS for authority to receive and hold QS
  - When the application is approved, the non-profit is certified as a Community Quota Entity (CQE) and enters the QS market
  - CQEs who hold QS then “lease” annual IFQ permit amounts to community residents
  - CQEs remain in the market, and buy/sell QS as their finances and interests allow
  - Council reviews program in 5 years

# "Eligible" GOA Communities

- Eligible Gulf of Alaska communities have the following characteristics:
  - They have a population of fewer than 1,500 people (according to the 2000 census)
  - They have direct saltwater access (i.e., they are located on the coast of the GOA)
  - They lack direct access to the road system
  - They have historic participation in the commercial halibut and sablefish fisheries, and
  - They have been specifically designated on a list recommended by the Council
- The Council has designated 42 communities, as follows:

# Designated Eligible Communities

## Southeastern Alaska

Angoon	Coffman Cove
Craig	Edna Bay
Elfin Cove	Gustavus
Hollis	Hoonah
Hydaburg	Kake
Kasaan	Klawock
Metlakatla	Meyers Chuck
Pelican	Point Baker
Port Alexander	Port Protection
Tenakee	Thorne Bay
Whale Pass	

## Southcentral Alaska

Akhiok	Chenega Bay
Chignik	Chignik Lagoon
Chignik Lake	Halibut Cove
Ivanof Bay	Karluk
King Cove	Larsen Bay
Nanwalek	Old Harbor
Ouzinkie	Perryville
Port Graham	Port Lions
Sand Point	Seldovia
Tatitlek	Tyonek
Yakutat	

In the future, other communities may seek an eligibility designation from the Council

# Community Quota Entities (CQEs)

- CQEs are new (organized after April 10, 2002) non-profit corporations that are authorized to hold halibut/sablefish QS on behalf of specific eligible communities
  - CQEs are organized under the laws of the State of Alaska (Title X)
  - CQEs may be tax exempt under IRS rules
- Before being designated as a CQE, the non-profit corporation must
  - Receive the support of one or more eligible communities
  - Successfully apply to NMFS (RAM) for CQE status

# Obtaining Community Support

- To become a CQE, the non-profit entity must demonstrate support from the eligible community(ies) it seeks to represent
- Support is demonstrated by resolution from the community's governing body; i.e., its
  - City Council if community is a municipality, or its
  - Tribal Government if community is not a municipality, or its
  - Non-Profit Association if community is neither a municipality nor a tribe
- A community may not designate more than one non-profit entity to represent it, but
  - A non-profit entity may represent more than one eligible community

# Applying to NMFS/RAM

- When a non-profit has obtained support from one or more eligible community(ies), it applies to NMFS for CQE status; applications must (minimally) include
  - Articles of Incorporation and By-laws
  - Organizational Chart and explanation of management structure
  - Statement describing procedures that will be used to distribute annual IFQ to residents of communities represented by the corporation
  - Formal statements of support (resolutions) from governing body(ies) of eligible community(ies)

# Approving CQE Applications

- When a non-profit seeking CQE status applies, RAM will
  - Review the application for completeness and accuracy
  - Ask for clarification or additional documentation
- When application is complete and accurate, RAM will provide it to the State of Alaska for a 30-day review period
  - State may ask for additional information and
  - May comment on the application to NMFS
- However, the State does not have “veto” power over an application

# Approving CQE Applications (Cont'd)

- Following consideration of comments by the State (if any), RAM may
  - Approve the application
  - Partially approve the application (e.g., approve for only some eligible communities), or
  - Deny the application
- All denials will be recorded by a formal “Initial Administrative Determination” (IAD)
  - Each IAD will identify the issue(s), provide the background, discuss the record, and provide a detailed explanation of the determination
  - The IAD will also provide instructions for appealing the determination to the (NMFS) Office of Administrative Appeals

# Approving CQE Applications (Cont'd)

- Upon approval of an application, RAM will certify that
  - The non-profit entity is a designated CQE, and may act on behalf of the named community(ies), and that
  - The CQE may hold and use QS on behalf of those community(ies)
- The CQE will be issued a "Transfer Eligibility Certificate" (TEC) and will be eligible to enter QS market on behalf of its eligible community(ies)
- But certain limits and special rules for CQEs will apply

# Community/CQE QS Use Caps

- There are two types of QS Use Caps that apply, including
  1. Caps on each community's holdings, and
  2. Cumulative caps on all community holdings
- Community use caps (as held by CQEs on behalf of the communities) are same as caps under the existing program; i.e.:
  - 1% of 2C halibut QS (~600k units)
  - 0.5% of all GOA halibut QS (~1,500k units)
  - 1% of SE sablefish QS (~688k units)
  - 1% of all sablefish QS (~3,230k units)

# Community/CQE QS Use Caps (Cont'd)

- Cumulative use caps on all CQE/community QS holdings will be applied as follows:
  - First Year: 3%
  - Second Year: 6%
  - Third Year: 9%
  - Fourth Year: 12%
  - Fifth Year: 15%
  - Sixth Year: 18%
  - Seventh Year: 21%
- These cap amounts will be a specific item of Council attention during the 5-year program review

# Other CQE QS Purchase Limitations

- A CQE may not purchase, nor voluntarily receive by transfer, and use
  - QS from Bering Sea administrative areas
  - QS from halibut Area 3B (if on behalf of community located in Southeast Alaska)
  - QS from halibut Area 2C (if on behalf of community located in Southcentral Alaska)
  - QS in vessel category "D" (yielding IFQ for use on vessels less than 35' length over-all) in areas 2C and 3A
- If a CQE receives QS by "operation of law" contrary to above limitations, such QS may not be used (i.e., it will not yield IFQ)

# Community/CQE QS Block Rules

- A CQE may not purchase, nor voluntarily receive by transfer, and use (on behalf of any community)
  - More than 10 blocks of halibut or 5 blocks of sablefish QS in any one management area
- Further, a CQE may not purchase, nor voluntarily receive by transfer, and use (on behalf of any community)
  - QS blocks in amounts small enough to be “swept up” to form larger blocks; “sweep up” amounts are fixed numbers of QS units in each area, that generally yield
    - Less than ~3,000 pounds of halibut QS
    - Less than ~5,000 pounds of sablefish QS

# Use of Community QS Held by a CQE

- QS held by a CQE on behalf of an eligible community will yield annual IFQ permit(s)
  - The size of each permit (i.e., the amount of IFQ pounds it authorizes) depends on the relative amount of QS held in the pertinent administrative area and the size of the TAC; recall that:

$$QS/QSP \times TAC = IFQ$$

- Upon receipt of its annual IFQ permit(s), the CQE may then transfer (i.e. "lease") all or part of the IFQ pounds to one or more permanent resident(s) of the community on whose behalf the QS is held

# Use of Community QS (Cont'd)

- To be eligible to lease the IFQ, a person must
  - Be a permanent resident of the community on whose behalf the CQE is leasing the IFQ,
    - A “permanent resident” is one who affirms that s/he has maintained a domicile in the community for a minimum of 12 months prior to applying to receive IFQ by transfer
  - Be an individual who is eligible to receive QS/IFQ by transfer; i.e.,
    - Be an “IFQ Crewmember” (demonstrate 150 days fishing experience), or
    - Be an individual who received QS by initial issuance

# Limitations on Leasing of IFQ

- The amount of IFQ held by a lessee may not exceed 50,000 pounds of halibut or sablefish, as derived from any source
- The amount of IFQ fished from any vessel may not exceed 50,000 pounds of halibut or sablefish in any season, inclusive of all IFQ fished aboard the vessel
- The lessee must be on board while fishing and delivering (i.e., no hired skippers)
- Vessel category length restrictions do not apply to IFQ leased from CQEs

# Responsibilities of Lessee

- Hire the crew (preferably local), gear up the vessel, secure a market, and go fishing
- Follow all rules that apply to all other catcher vessel IFQ permit holders
  - Including accepting liability, jointly with CQE, for fishery violations
- Pay the annual fee assessed against IFQ permit holders with landings
  - Will be billed at the end of year for amount not to exceed 3% of the ex-vessel value of the IFQ delivered halibut or sablefish
  - Fees are intended to recover the actual costs of managing and enforcing the IFQ program

# Restrictions on Sales of Community QS

- A CQE that holds QS on behalf of a community may only sell that QS to
  - "...improve, sustain, or expand..." the opportunities for community members to participate in the IFQ fisheries; but note that
  - QS may also be transferred by "...operation of law..." or by the terms of a security agreement
- To insure that the community's interests are protected when a transfer of QS is proposed
  - an application to transfer QS from the CQE must be signed by a representative of the community

# Steps if Restrictions Violated

- The purpose(s) of the proposed transfer of QS will be self-declared by the community and its CQE at time of transfer
- If it is subsequently shown that the restriction has been violated, NMFS will
  - Withhold issuance of the community's IFQ to the CQE, and
  - Suspend the community's ability to use QS for a period of up to three calendar years
- These measures will be administrative sanctions and will not be imposed until full administrative due process (notice and opportunity to be heard) has been provided

# CQE Annual Reporting Obligation

- Each CQE must file an Annual Report on behalf of its eligible community(ies)
- The report must be filed by January 31 of the year following the calendar year for which the report is prepared
- Copies of the report are to be submitted
  - To each eligible community on whose behalf the CQE is filing, and
  - To NMFS
- Information in the reports will be summarized and made available to the public (specifically, to the State and to the Council)

# Contents of Annual Report

- To be complete, the CQE's Annual Report must contain
  - Name(s) of vessel(s) upon which IFQ was fished
  - Names and addresses of crew members
  - Description of criteria used to distribute IFQ (leases) among eligible community residents
  - Description of efforts to employ community residents as crewmembers
  - Description of process used to solicit lease applications from eligible community residents, including name(s) of all who applied
  - CQE management changes, including changes in key personnel, board members, and corporate by-laws

# Contents of Annual Report (Cont'd)

- Copies of relevant decision documents and minutes from CQE board meetings
- The contents will be augmented with information provided by NMFS, including
  - Identification of eligible community(ies)
  - Amount of QS held by CQE/community at beginning and end of calendar year
  - Amount of IFQ leased from the CQE/community
  - Name(s) and address(es) of IFQ lessee(s)
  - Number of vessels from which the community IFQ was fished

# Steps if Annual Report is Not Filed

- Failure to submit an Annual Report in a timely manner could result in
  - Withholding of annual IFQ permit(s) from the CQE and the community(ies) it represents
  - Suspending authority of the CQE/community(ies) to receive additional QS by transfer or to transfer the QS/IFQ it holds
  - Additional enforcement action as indicated
- As is the case with other adverse actions, these will be administrative sanctions and will not be imposed until full administrative due process (notice and opportunity to be heard) has been provided

# Concluding Remarks

- The Council and NMFS view this IFQ program amendment as a way to help small GOA communities to enhance their fishing economies
  - But it provides no allocation nor guarantees of success
  - Instead, it provides an **opportunity**
- The success of program will depend on the imagination and hard work of the communities and the organizations they form to represent them

# For More Information...

- ✓ Questions and comments on policy issues should be addressed to the Council, in Anchorage
- ✓ Questions and comments on the implemen-  
tation process should be directed to NMFS, Restricted Access Management (RAM), in Juneau
- ✓ Questions and comments on assistance from the State of Alaska should be directed to the Department of Community and Economic Development, in Juneau

# Contacts

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